

In the Circuit Court of the State of Oregon
For the County of Multnomah

MARY CHRISTINE M. MANAOIS,

Plaintiff,

CASE NO. 1209-11822

SUMMONS

vs.

PROVIDENCE HEALTH AND SERVICES – OREGON,

Defendant.

Providence Health & Services Oregon
 c/o Business Filings Incorporated, Registered Agent
 388 State Street, #420
 Salem OR 97301

You are hereby required to appear and defend the complaint filed against you in the above-entitled action within thirty (30) days from the date of service of this summons upon you, and in the case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "Appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636. The Oregon State Bar Referral Service Website is: www.osbar.org/public.

STATE OF OREGON; County of Multnomah) ss.

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above-entitled action.

/s/ Debbie L. Pilorget

SIGNATURE OF ATTORNEY/AUTHOR FOR PLAINTIFF

Debbie Pilorget, OSB No. 003538

ATTORNEY'S/AUTHOR'S NAME (TYPED OR PRINTED)

BAR NO. (IF ANY)

Kivel & Howard LLP

111 SW Fifth Avenue, Suite 1775

ADDRESS

Portland, Oregon 97204

(503) 796-0909

CITY

STATE

ZIP

PHONE

TRIAL ATTORNEY IF OTHER THAN ABOVE (TYPED OR PRINTED)

BAR NO.

Debbie Pilorget, OSB No. 003538

ATTORNEY OF RECORD FOR PLAINTIFF(S)

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document that you shall attach hereto.

/s/ Debbie L. Pilorget

KIVEL & HOWARD LLP
 ATTORNEYS AT LAW
 111 SW Fifth Avenue, Suite 1775
 Portland, Oregon 97204
 (503) 796-0909

Debbie Pilorget, OSB No. 003538

ATTORNEY(S) FOR PLAINTIFF(S)

MAN027-0001P

Exhibit 1

SEP 20 2012

I HEREBY CERTIFY THAT THIS IS
A TRUE COPY OF THE ORIGINAL
[Signature]
OF ATTORNEYS FOR

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

MARY CHRISTINE M. MANAOIS, an
individual,

Plaintiff,

v.

PROVIDENCE HEALTH AND
SERVICES – OREGON, an Oregon Non-
Profit Corporation,

Defendant.

CASE NO. **120911822**

COMPLAINT
(Violation of Title VII Sex
Discrimination; Retaliation; State
Statutory Discrimination and Retaliation)

PRAYER: \$800,000

Fee Authority: ORS 21.160(1)(c)

For her Complaint, Plaintiff Mary Christine M. Manaois (“Plaintiff”) alleges as
follows:

1.

Plaintiff is an individual residing in Multnomah County, Oregon.

2.

At all relevant times, Plaintiff was employed by Providence Health & Services Oregon,
an Oregon Non-Profit Corporation (“Providence”) in Portland, Multnomah County, Oregon.
Providence employed more than five hundred (500) employees for each working day in each of
twenty or more calendar weeks in the current or preceding calendar year.

3.

Plaintiff has exhausted all administrative remedies necessary to proceed on her Title VII
claims. Plaintiff timely filed a complaint with the Bureau of Labor and Industries (“BOLI”).
BOLI is a Fair Employment Practices Agency authorized by the Equal Employment

1 Opportunity Commission to accept complaints on its behalf. Plaintiff received a right-to-sue
2 letter from BOLI dated June 22, 2012.

3 **FACTUAL ALLEGATIONS**

4 4.

5 Plaintiff began work for Providence in or around April 2007 as an environmental
6 services supervisor.

7 5.

8 Plaintiff's husband, Bo Nguyen ("Nguyen") was also employed by Providence in the
9 pharmacy department.

10 6.

11 Plaintiff's daughter, Justine Manaois ("Manaois"), was also employed by Providence as
12 a volunteer.

13 7.

14 Plaintiff was, prior to 2010, one of two female supervisors in the environmental services
15 department. Her work shift was 6:00 p.m. to 1:30 a.m.

16 8.

17 In or around May 2009, Terry Branson ("Branson"), a male, was hired as the Director of
18 Environmental Services and was Plaintiff's direct manager.

19 9.

20 Prior to Branson's employment, Plaintiff "exceeded expectations" on all of her annual
21 performance evaluations and received the maximum pay increase available for her position.

22 10.

23 On more than one occasion between May 2009 and September 2010 Branson advised
24 Plaintiff and others that he did not believe that women should be supervisors in his department.

11.

After Branson's employment, Plaintiff received only "meets expectations" on her performance evaluations, resulting in smaller pay increases.

12.

From May 2009 through September 2010, Plaintiff was subject to oral and written discipline for conduct that male employees were not subject to, including, but not limited to:

a. In or around October 2009, Branson disciplined Plaintiff for tardiness but failed to discipline other male employees, including but not limited to Stanley Phillips, for tardiness.

b. In or around December 2009, Branson disciplined Plaintiff for failing to adhere to department-wide policies but failed to discipline other male employees, including but limited to Stanley Phillips and Luis Navarrete, for failing to adhere to department policies.

13.

From May 2009 through September 2010, Plaintiff was required to change her work shift to 9:30 p.m. to 6:00 a.m. and was required to complete additional duties while none of the male supervisors were required to change shifts or complete additional duties.

14.

On or about December 29, 2009, Plaintiff complained, in writing, to Branson regarding her treatment.

15.

On or about September 15, 2010, an altercation involving two employees occurred. One employee was supervised by Plaintiff, the other employee was supervised by a male supervisor, Al Kendall ("Kendall"). As required by department policy, Plaintiff investigated the altercation and issued a disciplinary statement to the involved employees. Though Plaintiff repeatedly asked Kendall for assistance and advice, Kendall took no action to investigate the incident or issue a disciplinary statement. Instead, Kendall left the premises.

16.

On September 20, 2010, Plaintiff was terminated for failing to send the employees home. No disciplinary action was taken against Kendall.

17.

During Plaintiff's termination meeting, no Human Resources Director was present as required by Defendant's policy. However, when another supervisor, Luis Navarrete, was ultimately terminated, a Human Resources Director was present.

18.

On September 22, 2010, Plaintiff filed a grievance with Providence.

19.

In a meeting with Providence Human Resources on or about October 5, 2010, Plaintiff advised Providence of the employment status of her family members.

20.

On December 27, 2010, Plaintiff was reinstated to a non-managerial position as a Nursing Staffing Coordinator at a rate of pay of approximately \$21.00 per hour.

21.

On or around December 27, 2010, Plaintiff's husband, Nguyen, was terminated and her daughter, Manaois, was placed on a permanent leave of absence.

22.

In or around January 2011, Plaintiff filed a discrimination complaint/charge with BOLI.

23.

Subsequent to her reinstatement and the filing of her BOLI complaint, Plaintiff began to experience a change in her working conditions, including, but not limited to:

a. inadequate, inaccurate and inconsistent training despite numerous requests for proper training;

b. promotion of an adequately trained male employee to Plaintiff's position in or around May 2011 while Plaintiff was demoted without explanation;

c. scheduling of unfavorable work shifts with no notice or without proper rest time;

d. canceling and rescheduling of meetings without adequate notice and time for preparation.

24.

Plaintiff notified Human Resources, in writing, regarding the change in her working conditions but no action was taken to address her concerns.

25.

On or about July 13, 2011, Plaintiff filed a retaliation complaint with BOLI.

26.

In or around July 2011, Plaintiff was placed on medical leave as a result of the stress associated with her working environment. Her employment was eventually terminated.

27.

In or around August 2011, Plaintiff accepted a position with Legacy earning \$16.50 per hour.

28.

In or around April 2, 2012, BOLI concluded that there was substantial evidence to support Plaintiff's allegations of discrimination.

FIRST CLAIM FOR RELIEF

(Violation of Title VII – 42 U.S.C. § 2000e)

Count 1 – Disparate Treatment Gender Discrimination

29.

Plaintiff realleges paragraphs 1 – 28. 42 U.S.C. § 2000e-2(a) provides: "it shall be an unlawful employment practice for an employer" to discharge an individual, "or otherwise to discriminate against any individual with respect to his compensation, terms, conditions or

1 privileges of employment because of such individual's race, color, religion, sex, or national
2 origin . . .”

3 30.

4 During the course of Plaintiff's employment with Defendant, Plaintiff suffered from
5 discrimination based on her gender. Incidents of gender discrimination committed by
6 Defendant adversely affected Plaintiff's employment opportunities, terms, conditions, and
7 privileges of employment in violation of 42 U.S.C. § 2000e-2(a).

8 31.

9 Defendant discriminated against Plaintiff in the employment opportunities, terms,
10 conditions, and privileges of her employment and ultimately terminated her on the basis of her
11 gender because she is a woman.

12 32.

13 As a direct and proximate consequence of Defendant's discrimination, Plaintiff has
14 experienced humiliation, stress, damage to her reputation, and emotional and mental suffering.
15 Plaintiff has suffered non-economic damages in a fair sum to be determined by the jury at trial,
16 but in no event more than \$300,000.

17 33.

18 Pursuant to 42 U.S.C. § 1988 Plaintiff is entitled to recover her reasonable attorney fees.

19 **Count 2 – Retaliation Gender Discrimination**

20 34.

21 Plaintiff realleges paragraphs 1-33. 42 U.S.C. § 2000e-3(a) “it shall be an unlawful
22 employment practice for an employer to discriminate against any of his employees . . . because
23 he has opposed any practice made an unlawful employment practice by this subchapter, or
24 because he has made a charge, testified, assisted, or participated in any manner in an
25 investigation, proceeding, or hearing under this subchapter.”

35.

Plaintiff complained about conduct that she believed was discrimination based on her gender. After these complaints, Defendant retaliated against Plaintiff in one or more of the ways described.

36.

Defendant's retaliation toward Plaintiff because she complained about gender discrimination constitutes a violation of 42 U.S.C. § 2000e-3(a) for which Plaintiff is entitled to relief.

37.

As a direct and proximate consequence of Defendant's retaliation, Plaintiff has experienced humiliation, stress, damage to her reputation, and emotional and mental suffering. Plaintiff has suffered non-economic damages in a fair sum to be determined by the jury at trial, but in no event more than \$300,000.

38.

Pursuant to 42 U.S.C. § 1988 Plaintiff is entitled to recover her reasonable attorney fees.

SECOND CLAIM FOR RELIEF

(Violation of ORS 659A)

Count 1 – Gender Discrimination

39.

Plaintiff realleges paragraphs 1-38. ORS 659.030(1)(b) provides that it is an unlawful employment practice “for an employer, because of an individual’s race, color, religion, sex, sexual orientation, national origin, marital status or age if the individual is 18 years of age or older . . . to discriminate against the individual in compensation, or in terms, conditions or privileges of employment.” Discrimination committed by Defendant affected Plaintiff’s employment opportunities and terms, conditions, and privileges of employment and is a direct violation of the statute.

1 40.

2 As a direct and proximate consequence of Defendant's discrimination, Plaintiff has
3 experienced humiliation, stress, damage to her reputation, and emotional and mental suffering.
4 Plaintiff has suffered non-economic damages in a fair sum to be determined by the jury at trial,
5 but in no event more than \$500,000 as a result of Defendant's gender discrimination directed
6 against her.

7 41.

8 Pursuant to ORS 659A.885, Plaintiff is entitled to recover her reasonable attorney fees.

9 **Count 2 – Retaliation Gender Discrimination**

10 42.

11 Plaintiff realleges paragraphs 1-41. ORS 659A.030(1)(f) provides that it is an unlawful
12 employment practice "for any person to discharge, expel or otherwise discriminate against any
13 other person because that other person has opposed any unlawful practice, or because that other
14 person has filed a complaint, testified or assisted in any proceeding under this chapter or has
15 attempted to do so."

16 43.

17 Plaintiff complained about conduct that she believed was discrimination based on her
18 gender. After these complaints, Defendant retaliated against Plaintiff in one or more of the
19 ways described.

20 44.

21 Defendant's retaliation toward Plaintiff because she complained about gender
22 discrimination, constitutes a violation of ORS 659A.030(1)(f), for which Plaintiff is entitled to
23 relief.

24 45.

25 As a direct and proximate consequence of Defendant's retaliation, Plaintiff has
26 experienced humiliation, stress, damage to her reputation, and emotional and mental suffering.

1 Plaintiff has suffered non-economic damages in a fair amount to be determined by the jury at
2 trial but in no event more than \$500,000 as a result of Defendant's retaliation against her.

3 46.

4 Pursuant to ORS 659.885, Plaintiff is entitled to recover her reasonable attorney fees.

5 WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

6 1. For Plaintiff's First Claim:

7 a. Count 1: For non-economic damages in the sum of \$300,000.

8 b. Count 2: For non-economic damages in the sum of \$300,000.

9 2. For Plaintiff's Second Claim:

10 a. Count 1: For non-economic damages in the sum of \$500,000.

11 b. Count 2: For non-economic damages in the sum of \$500,000.

12 3. For Plaintiff's attorney's fees and costs incurred herein; and

13 4. For such other relief as the Court deems just and proper.

14 DATED: September 20, 2012.

15 KIVEL & HOWARD LLP

16 
17 Debbie Pilorget, OSB No. 003538
18 dpilorget@k-hlaw.com
19 111 SW Fifth Avenue, Suite 1775
20 Portland, OR 97204
21 Phone: 503.796.0909
22 Fax: 503.802.4757
23 Of Attorneys for Plaintiff
24
25
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